IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT :

THE HONOURABLE MR. JUSTICE R.BASANT

WEDNESDAY, THE 14TH NOVEMBER 2007 / 23RD KARTHIKA 1929

Crl.MC.No. 3423 of 2007()

CC.324/2006 of JUDL.MAGISTRATE OF FIRST CLASS, NORTH PARAVUR

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PETITIONER:

BINDU ROBIN, AGED 31, W/O. ROBIN,
NADUMUTTAM HOUSE, PUTHAN PALLY, VARAPUZHA,
NORTH PARUR.

BY ADV. SRI.K.S.MADHUSOODANAN
SRI.T.V.JAYAKUMAR NAMBOODIRI
SRI.THUSHAR NIRMAL SARATHY
SRI.M.M.VINOD KUMAR
SMT.K.M.RAMYA

RESPONDENTS: COMPLAINANT & FORMAL PARTY

1. STATE OF KERALA, REP. BY
PUBLIC PROSECUTOR, HIGH COURT OF KERALA,
ERNAKULAM.

2. S.H.O.,
VARAPUZHA POLICE STATION, VARAPUZHA, NORTH PARUR.

3. T.G.ROBIN, S/O. LATE GEORGE,
AGED 38, THENGAPURAKKAL HOUSE, KOONAMAVU, PARUR,
(NOW WORKING AS PAINTER IN KHAN SHEB,
P.B.NO.2716, SFI-UAE, DUBAI.

4. ANJALA, W/O. GEORGE,
THENGAPURAKKAL HOUSE, THEVARKAD, VARAPUZHA.

5. REENA, W/O. GEORGE,
POONELIL HOUSE, PULLUVAZHI, PERUMBAVOOR.

6. REEMOL, W/O. PETER,
KALLARAKKAL HOUSE, MANJAPPRA, ANGAMALY.

R1 & R2-BY P.P.SRI.P. RAVEENDRA BABU

THIS CRIMINAL MISC. CASE HAVING COME UP FOR ADMISSION ON 14/11/2007, THE COURT ON THE SAME DAY PASSED THE FOLLOWING:

R.BASANT, J

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Crl.M.C.No. 3423 of 2007

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Dated this the 14th day of November, 2007

ORDER

Petitioner is the de facto complainant in a prosecution under Section 498A read with 34 IPC. Respondents 3 to 6 are her husband and his relatives, who are accused in that prosecution. Final report has been filed by the Police after due investigation. Cognizance has been taken by the learned Magistrate. The case is pending before the learned Judicial First Class Magistrate, North Paravur as C.C.No.324/2006. The only allegation in the case is under Section 498A read with 34 IPC.

2. The petitioner, the de facto complainant, has come before this Court with a prayer that the proceedings against the accused - her husband and his relatives may be quashed invoking the powers under Section 482 Cr.P.C. According to her, the disputes have been settled amicably. Spouses have agreed to resume co-habitation. The husband is now working abroad. He is expected to return shortly. In these circumstances, the matter having been settled between the parties and the petitioner having compounded the offence under Section 498A IPC

allegedly committed by the accused / respondents 3 to 6, it is prayed that the proceedings may be quashed invoking the powers under Section 482 Cr.P.C.

3. I am satisfied from the averments made in the petition and the statements made at the Bar that the de facto complainant has settled the disputes and has compounded the offence allegedly committed by respondents 3 to 6. If legally permissible, I am satisfied that the composition can be accepted and premature termination of the proceedings can be directed.

4. However, the offence under Section 498A I.P.C is not compoundable as per the stipulations under Sec.320 Cr.P.C. The learned counsel, in these circumstances, rightly relies on the decision in B.S.Joshi vs. State of Haryana [AIR 2003 SC 1386]. That decision is authority for the proposition that interest of justice may at times transcend the interests of mere law and on such occasions, the stipulations of Section 320 Cr.P.C. cannot be reckoned as a fetter on the width, sweep and amplitude of the powers under Section 482 Cr.P.C.

5. I am satisfied that this is an eminently fit case where the powers under Section 482 Cr.P.C as explained in the dictum

in B.S.Joshi vs. State of Haryana [AIR 2003 SC 1386] can and ought to be invoked to bring to premature termination the proceedings which is now continuing. Since the de facto complainant has come before this Court with this petition and counsel vouches that the de facto complainant has settled the disputes with the accused persons, it is not necessary to wait for issue and return of notice to the respondents-accused. The learned Public Prosecutor on being given notice does not raise any objections against the grant of the prayer in this Crl.M.C.

6. In the result, this Criminal Miscellaneous Case is allowed. C.C.No.324/2006 pending before the Judicial First Class Magistrate Court, North Paravur against respondents 3 to 6 under Section 498A is hereby quashed.

(R.BASANT, JUDGE)

sj

/TRUE COPY/

P.A.TO JUDGE